

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE APPLICATION OF)	ORDER GRANTING
PATHNET, INC. FOR A CERTIFICATE OF)	CERTIFICATE OF
AUTHORITY TO PROVIDE LOCAL EXCHANGE)	AUTHORITY
SERVICES IN SOUTH DAKOTA)	TC00-017

On February 15, 2000, the Public Utilities Commission (Commission) received an application for a certificate of authority from Pathnet, Inc. (Pathnet).

Pathnet intends to offer point-to-point private line services ranging from DS-0 to OC-n, using TDM technology. Pathnet further plans to offer TDM-based special access services. Pathnet also plans to offer data services, including digital subscriber line (xDSL) services. Pathnet intends to offer these private line, special access and data services primarily to other carriers and to Internet service providers. Pathnet further plans to offer exchange services in which it will provide link and extended link (including transport) services connecting other telecommunications providers' switches to their end users. At this time, Pathnet does not plan to provide basic local dial tone service to end users. A proposed tariff was filed by Pathnet.

On February 17, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of March 3, 2000, to interested individuals and entities. South Dakota Independent Telephone Coalition, Inc. filed to intervene on March 1, 2000, and withdrew its petition to intervene on March 16, 2000. At its regularly scheduled June 20, 2000, meeting, the Commission considered Pathnet's request for a certificate of authority. Commission Staff recommended granting a certificate of authority, subject to a continuous \$25,000 surety bond, subject to Pathnet not offering basic local dial tone service to end users, and subject to rural safeguards. Commission Staff further recommended a waiver of ARSD 20:10:32:03(8), (10) and (15).

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-69 and ARSD 20:10:32:03. The Commission finds that Pathnet has met the legal requirements established for the granting of a certificate of authority. Pathnet has, in accordance with SDCL 49-31-71, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota. Further, the Commission finds that there is good cause to waive subparagraphs (8), (10) and (15) of ARSD 20:10:32:03.

The Commission approves Pathnet's application for a certificate of authority, subject to a continuous \$25,000 surety bond, subject to Pathnet not offering basic local dial tone service to end users, and subject to rural safeguards. The certificate of authority for Pathnet shall authorize it to offer local exchange services in South Dakota, except in those areas served by a rural telephone company. In the future, should Pathnet choose to provide local exchange services statewide, with respect to rural telephone companies, Pathnet will have to come before the Commission in another proceeding before being able

to provide local service in that rural service area pursuant to 47 U.S.C. § 253(f) which allows the Commission to require a company that seeks to provide service in a rural service area to meet the requirements in 47 U.S.C. § 214(e)(1) for designation as an eligible telecommunications carrier. In addition, the granting of statewide certification will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f). It is therefore

ORDERED, that Pathnet's application for a certificate of authority to provide local exchange services, is granted, subject to a continuous \$25,000 surety bond, and subject to Pathnet not offering basic local dial tone service to end users; and it is

FURTHER ORDERED, that Pathnet shall file informational copies of tariff changes with the Commission as the changes occur; and it is

FURTHER ORDERED, that the Commission shall authorize Pathnet to offer its local exchange services in South Dakota, except in those areas served by a rural telephone company; and it is

FURTHER ORDERED, that the Commission finds good cause to waive subparagraphs (8), (10) and (15) of ARSD 20:10:32:03.

Dated at Pierre, South Dakota, this 28th day of June, 2000.

<p align="center">CERTIFICATE OF SERVICE</p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: _____</p> <p>Date: _____</p> <p align="center">(OFFICIAL SEAL)</p>

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner